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|-----------------------------------|---|---------------------|
| In re Application of | : | |
| SRIVASTAVA, et al. | : | DECISION ON RENEWED |
| Application No.: 09/485,877 | : | |
| PUT No.: PCT/US99/13812 | : | PETITION UNDER |
| Int. Filing Date: 18 June 1999 | : | |
| Priority Date: 19 June 1998 | : | 37 CFR 1.47(a) |
| Attorney Docket No.: Srivas-14-21 | : | |
| For: GAIN TILT CONTROL WITH MID- | : | |
| STAGE ATTENUATORS IN ERBIUM- | : | |
| DOPED FIBER AMPLIFIERS | : | |

This decision is in response to applicant's correspondence filed 18 June 2001 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 23 January 2001, applicant was mailed a decision granting applicant's petition under 37 CFR 1.137(b) to revive the above-captioned application as to the United States. In the same decision, applicant's petition under 37 CFR 1.47(a) to proceed with prosecution of the application absent an oath or declaration executed by joint inventor John ZYSKIND was dismissed. Applicant was afforded two months to respond.

On 18 June 2001, applicant responded with the present renewed petition under 37 CFR 1.47(a) accompanied by a petition for a two-month extension of time, an assignment agreement executed by joint inventor John ZYSKIND and a combined declaration and power of attorney executed by joint inventor John ZYSKIND.

DISCUSSION

The renewed Petition Under 37 CFR 1.47(a) is moot since the declaration filed 18 June 2001 was executed by the previous non-signing inventor, John ZYSKIND. However, the declaration filed 18 June 2001 is not acceptable under 37 CFR 1.497 for the reasons explained below with respect to the 10 October 2000 declaration.

The response period from the mail date of 23 January 2001 expired on 23 March 2001.

As noted above, applicant filed a petition for a **two-month** extension which would have resulted in a response date of 23 May 2001. Applicant filed the present reply on 18 June 2001. Therefore applicant's petition for an extension of time will be treated as a petition for a **three-month** extension of time in order to consider the papers timely filed. The \$500.00 difference in petition fees will be charged to Deposit Account No.: 50-1735.

Applicant is advised that the declaration filed 10 October 2000 does not comply with 37 CFR 1.497 (a)-(b). The declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor contains two "Page 4." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.) In addition, the declaration is defective under 37 CFR 1.497(a)(2), as the inventors executed "the specification of which is attached hereto." However, no specification was attached.

CONCLUSION

For the reasons above, the Renewed Petition Under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

As discussed above, \$500.00 will be deducted from Deposit Account No.50-1735.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.



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